

Amendments to the Drawings:

The attached seven sheets of drawings replace the originally filed seven drawing sheets. Changes/Amendments are as follows:

- All of the figures (i.e., Figures 1, 2, 3, 4A, 4B, 5, 6A, and 6B) are now presented in formal form (i.e., replacing the originally filed informal versions of Figures 1, 2, 3, 4A, 4B, 5, 6A, and 6B).
- Also, each of Figures 2 and 3 has been amended to now include the legend --(PRIOR ART)--.

Attachments: Seven (7) Replacement Sheets, upon which Figures 1, 2, 3, 4A, 4B, 5, 6A, and 6B are depicted.

REMARKS

Claims 1-28 remain pending in the application. Figures 2 and 3 have been amended without introduction of new matter. Entry of the amendment to the figures and favorable reconsideration are respectfully requested in view of the following remarks.

The allowance of claims 4-14 and 18-28 is noted with appreciation.

The drawings were objected to because Figures 2 and 3 “are discussed in the background of the specification” but lack a legend such as --Prior Art--. In response, amended figures are presented herewith in which the legend --(PRIOR ART)-- has been added to Figures 2 and 3. It is respectfully noted, however, that this amendment is not being made merely “because the figures are discussed in the background of the specification” -- applications often include material in the Background section that is not prior art -- but rather because, in this instance, Figures 2 and 3 are intended to represent known information.

In addition to amendments to Figures 2 and 3, submitted herewith are formal versions of all of the originally filed drawings. No other substantive amendments have been made, however.

In view of the foregoing, it is respectfully requested that the objection to the drawings be withdrawn.

Claims 1, 2, 3, 15, 16, and 17 stand rejected under 35 U.S.C. §102(a) as allegedly being anticipated by applicant’s background of the specification (hereinafter, “spec background”). This rejection is respectfully traversed.

It is well established that “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See also M.P.E.P. §2131, page 2100-67. In the present instance, the spec background fails to anticipate the subject matter defined by independent claims 1 and 15 at least because it fails to disclose or even suggest “determining the gain offset based on the first and second sets of channel estimates”.

The Office alleges that this feature is disclosed in the spec background on page 11, lines 25-26 (“DPCH, CPICH ... difference as the gain offset”). With all due respect, the Office’s allegation is in error because the passage in question merely states that the transmission powers on DPCH and CPICH will differ in most cases by an amount unknown to the mobile. The text is merely an explanation of the conditions experienced by the mobile in the described environment, and a statement of the problem, not its solution. The spec

background goes on to inform that this difference between transmission powers is referred to as “gain offset”, and notes that the gain offset will vary in time, which again merely identifies conditions experienced by the mobile.

Of relevance in this analysis is the fact that this passage does not provide any teaching regarding how to determine the gain offset in the receiver, nor does any other passage in the Background section.

Rather, it is Applicants’ own disclosure, set forth in the Detailed Description section (beginning on page 13, line 23), which teaches how to determine the gain offset, which technique includes “determining the gain offset based on the first and second sets of channel estimates.”

For at least the foregoing reasons, each of independent claims 1 and 15 is believed to define subject matter that is patentably distinguishable over the spec background. The claims 2-3 and 16-17, which variously depend from claims 1 and 15, are patentably distinguishable over the spec background for at least the same reasons. Accordingly, it is respectfully requested that the rejection of claims 1, 2, 3, 15, 16, and 17 under 35 U.S.C. §102(a) be withdrawn.

The application is believed to be in condition for allowance. Prompt notice of same is respectfully requested.

Respectfully submitted,
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